IN THE HIGH COURT OF JUDICATURE OF
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI

WRIT PETITION NO. 32905 OF 1997

Dated : September 26, 2007

Between:

The Divisional Manager,
APSRTC, Guntur Division,
Guntur District

Petitioner

AND

Anjaneyulu, Rep. By the
General Secretary, APSRTC
National Mazdoor Union,
Guntur, Guntur District and another

Respondents

THE HON'BLE MRS. JUSTICE T.MEENA KUMARI

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ORAL ORDER:

The award dated 2.06.1997 passed by the Presiding Officer, Labour Court, Guntur, Guntur District, in I.D. No. 544 of 1991, modifying the punishment from

reduction of pay of the first respondent by three incremental stages for a period of two years with cumulative effect besides treating the suspension period as not on duty to one reducing the pay to one incremental stage for a period of one year with cumulative effect and treating the suspension period as not on duty, is challenged in this writ petition, by the A.P. State Road Transport Corporation.

The workman - first respondent was appointed as Conductor in the petitioner Corporation and was attached to Guntur-II Depot, on 19.10.1984, while the Booking Clerk Smt. N.S.Laxmi, was on duty, the first respondent approached her and abused her, demanding her to stop the announcement of departures of buses using un-parliamentary language and also threatened her. The respondent, to a charge memo submitted an explanation on 22.11.1984 and a Domestic Enquiry was conducted, as per the procedure envisaged under the Regulations of the Corporation. The Enquiry Officer submitted his report holding that the charge framed against the respondent was proved. Consequently, the Depot Manager, after going through the Enquiry Report, passed order reducing basic pay of the workmen by six incremental stages for a period of three years which will have an effect of postponing further increments and the suspension period was

treated as not on duty through the proceedings dated 19.11.1986. Aggrieved thereby, the respondent No.1 filed an appeal before the petitioner herein, wherein the punishment was modified reducing his pay to three incremental stages for a period of two years with cumulative effect besides treating the suspension period as not on duty by proceedings dated 28.5.1987.

Aggrieved by the same, the first respondent raised an industrial dispute being ID No. 544 of 1991, and the second respondent, having regard to the facts and circumstances of the case modified the punishment, as stated supra, invoking Sec. 11-A of the Industrial Disputes Act.

The contention of the learned counsel for the petitioner is that the second respondent having held that the enquiry is valid, ought not to have entertained the industrial dispute and also failed to see that the quantum of punishment imposed against the first respondent is quite less compared to the gravity of the charge inasmuch as he has abused his fellow lady colleague in an un-parliamentary language.

Whereas, on behalf of the first respondent it is contended that the quantum of punishment imposed is disproportionate to the gravity of charge and due to the

award of such shockingly disproportionate punishment, the workman has to suffer heavy monetary loss through out his service.

Before delving on these contentions, be it noted that the scope and parameters of judicial review of this Court under article 226 of the Constitution of India, in writ of certiorari, are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. It is a settled law that this Court does not act as an appellate authority so as to reappraise the evidence while exercising certiorari jurisdiction. It is within this scope, the impugned award of the Labour Court, is to be examined.

It is also a settled principle of law that Section 11-A of the Industrial Disputes Act, 1947 confers wide discretion upon the Labour Court to reappraise the material available on record and substitute its own findings for that of the disciplinary authority, and where it feels that the punishment awarded by the disciplinary authority is too harsh and not in proportion to the proved charge or is shocking to the conscience of the Court, can award lesser punishment, but at the same time, it is a settled principle of law such wide discretion cannot be exercised arbitrarily but has to be exercised in a

judicious manner in consonance with the Rules. The Apex Court in *V. Ramana vs. A.P.S.R.T.C.*([1]), has held that the Labour Court while interfering with the punishment imposed by the disciplinary authority, should exercise its discretion under Section 11-A of the Industrial Disputes Act, 1947 judiciously, and should interfere if the order passed by the disciplinary authority is illogical or suffers from procedural irregularity or shocking to the conscience of the Court.

It is discernible from the evidence available on record, that the punishment imposed by the disciplinary authority is shockingly disproportionate to the proved charge. The award shows that the Tribunal, having satisfied with the gravity of charge has invoked its jurisdiction under Sec. 11-A of the Industrial Disputes Act and modified the punishment by reducing pay of the first respondent to one incremental stage for a period of one year with cumulative effect besides treating the period of suspension as not on duty. Nothing is demonstrated before this court to show that the award suffers from any illegality. Therefore, I have no hesitation in holding that the Tribunal below did not err in modifying the punishment. Hence, the second respondent was perfectly justified in modifying the punishment after reappraisal of evidence and having regard to the settled position of law.

For these reasons, the writ petition deserves to be

dismissed and is accordingly dismissed, confirming the award under challenge. No order as to costs.

Mrs. Justice T.Meena Kumari

September 26, 2007
MAS

[1] (2005) 7 SCC 338